
OPINION OF THE PUBLIC ACCESS COUNSELOR

KOHL HARRINGTON,
Complainant,

v.

PURDUE UNIVERSITY,
Respondent.

Formal Complaint No.
22-FC-24

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging that Purdue University violated the Access to Public Records Act.¹ Legal Services Coordinator Kaitlyn Heide filed an answer on behalf of the University. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on February 21, 2022.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This case involves a dispute about whether Purdue University (Purdue) took an unreasonable amount of time to provide public records in violation of the Access to Public Records Act (APRA).

On December 13, 2021, Kohl Harrington (Complainant) filed a public records request to Purdue University seeking the following:

all email records for the month of November 2021 for state chemist employee Mark LeBlanc containing the key word; AAFCO.

Purdue acknowledged the request the next day. On February 21, 2022, Harrington filed a formal complaint with this office after not receiving any responsive records. Harrington argues that Purdue failed to provide responsive records within a reasonable time under APRA.

On March 11, 2022, Purdue filed an answer to Harrington's complaint denying any violation of APRA. Specifically, Purdue argues that as of January 6, 2022, there were 25 public records requests ahead of Harrington's request.

Purdue asserts that the university legal office conducted a search for the records Harrington requested, which yielded a result of 133 messages. Purdue contends it must individually review each of those messages for responsiveness, which increases the amount of time required to respond to the request. Additionally, Purdue notes that a recent reorganization of its legal office has contributed to delays in its public records process.

ANALYSIS

1. The Access to Public Records Act

The Access to Public Records Act (APRA) states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. Purdue University (Purdue) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Purdue’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

2. Requests for emails and timeliness

The crux of this dispute is whether Purdue’s response is timely based on the request. APRA requires a public agency to provide public records to a requester within a reasonable time after receiving a request. Ind. Code § 5-14-3-3(b). Notably, APRA does not define the term “reasonable time.”

Here, Harrington and Purdue disagree about whether the agency complied with APRA’s reasonable time standard by taking more than two months to provide the requested records.² The determination of what is a reasonable time for

² It is unknown at the time of this writing whether the request has been fulfilled.

production depends on the public records requested and circumstances surrounding the request. Undoubtedly, certain types of records are easier than others to produce, review, and disclose. As a result, this office evaluates these issues case by case.

In this instance, Harrington requested emails from one individual for a specific month with a single key word. Usually, searching for, retrieving, and reviewing responsive emails and text messages takes more time than other types of public records kept in the ordinary course of business. Still, the inquiry does not end there.

This office has long recognized that certain factors are relevant in evaluating whether an agency is following APRA's reasonable time standard. These factors include, but are not limited to, the following:

- The size of the public agency;
- The size of the request;
- The number of pending requests;
- The complexity of the request; and
- Any other operational considerations that may reasonably affect the public records process.

Here, several factors listed above are in play. In this instance, Purdue satisfied its burden to demonstrate that more than one of these elements affected Harrington's request.

Insofar as complexity is concerned, under APRA, a request for inspection or copying "must identify with reasonable particularity the record being requested." Ind. Code § 5-14-

3-3(a)(1). Requiring reasonable particularity relieves a public agency from the guesswork of having to anticipate exactly what a requester is seeking.

Here, Harrington is missing the normal specificity required by this office³ and Indiana courts for requesting email records. Even so, Purdue accepted the request and did not ask Harrington to narrow it down. Therefore, a little more leeway can be given in terms of their response. Given the circumstances, it does not appear Purdue took too long as of the time of this writing.

³ *Opinion of the Public Access Counselor, 20-FC-84 (2020).*

CONCLUSION

Based on the foregoing, it is the opinion of this office that Purdue University did not violate the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor

Issued: March 24, 2022